

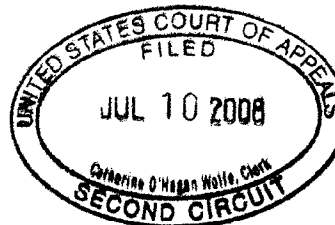
MANDATE

Jun-26-08 05:04pm From-USCA 2nd-STAFF COUNSEL

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T-385 P.002/003 F-129

SDNY/INNY
08-1583-CV-3494
Judge Cole



UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

RITCHIE v. COVENTRY

No. 08-1583-cv

08-1583-CV

STIPULATION WITHDRAWING APPARENTLY PREMATURE APPEAL
WITH CONDITIONAL RIGHT TO REINSTATE

It appears that the above appeal taken by Ritchie I and Ritchie II is premature because appellants' claim for breach of contract is still pending in District Court, i.e., said claim was non-suited without prejudice, see *Chappelle v. Beacon 84 F. 3d 852 (2d Cir. 1996)*, and no certification was granted under FRCP 54(b). The undersigned counsel for the parties hereby stipulate that the above appeal is hereby withdrawn, without costs and without attorneys' fees for the time spent on this appeal, pursuant to FRAP 42(b). This stipulation shall not preclude any appeal from a final judgment, i.e., adjudicating all the claims and the rights and liabilities of all the parties. Appellants retain the right to raise, in such subsequent appeal from a final judgment, the issues sought to be raised in this appeal.

The parties further stipulate that, only in the event that this Court were to rule, in a subsequent appeal from a final judgment, that appellants could not raise therein the issues presented in this appeal, leave is hereby granted to appellants to reinstate the instant appeal within 30 days of any such ruling; and the briefs in the subsequent appeal may stand as the briefs in the reinstated appeal.

This stipulation in 08-1583-cv shall not affect 08-1584-cv.

Tim B. Buer
Attorney For Appellants

[Signature]
Attorney For Appellees

SO ORDERED:

FOR THE COURT
Catherine O'Hagan Wolfe, Clerk of Court
By *Stanley A. Bass*
Stanley A. Bass, Staff Counsel

July 10, 2008

USDC SDNY
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A TRUE COPY
Catherine O'Hagan Wolfe, Clerk
by *[Signature]*
DEPUTY CLERK

Certified:

JUL 11 2008